

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANGEL HERNANDEZ,

Plaintiff,

v.

THE OFFICE OF THE COMMISSIONER OF
BASEBALL and MAJOR LEAGUE BASEBALL
BLUE, INC.

Defendants.

No. 18 Civ. 9035 (JPO) (GWG)

**DECLARATION OF JOE TORRE IN SUPPORT OF
DEFENDANTS' CROSS-MOTION FOR SUMMARY JUDGMENT AND
OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, JOE TORRE, hereby depose and state:

1. I have been employed by the Office of the Commissioner of Baseball ("MLB") since March 2011, with the exception of a brief period between February 1, 2012 and March 31, 2012.

2. I have personal knowledge of the facts set forth herein, and if called and sworn as a witness, I could and would testify to them competently under oath.

3. Before joining MLB in March 2011, I had previous experience as a Major League baseball player and field manager. I played Major League baseball for 17 years. During my playing career, I was a nine-time All-Star and the 1971 National League Most Valuable Player.

4. I also served as a field manager for a number of Major League Clubs between 1977 and 2010, including the New York Mets (1977-1981), Atlanta Braves (1982-1984), St. Louis Cardinals (1990-1995), New York Yankees (1996-2007), and Los Angeles Dodgers (2008-2010). While I was field manager for the New York Yankees, the Club won the World Series four times

(1996, 1998, 1999, and 2000), and I was named American League Manager of the Year twice (1996 and 1998).

5. I have won 2,326 games as a field manager, fifth-most in the history of Major League Baseball.

6. I am one of only five field managers in the history of Major League Baseball to win at least four World Series titles.

7. I was inducted into the National Baseball Hall of Fame in July 2014.

8. From March 2011 to December 2014, my title was Executive Vice President of Baseball Operations.

9. In January 2015, my title changed to Chief Baseball Officer, a title I held until January 2020.

10. In my roles as Executive Vice President of Baseball Operations and Chief Baseball Officer, I was responsible for making the final decisions as to umpire-related employment decisions, including umpire crew chief appointments and assignments to work Special Events, including but not limited to the World Series.

11. While I served in these roles, Peter Woodfork was, other than me, the senior-most executive responsible for Major League umpires, and was, in collaboration with me, integrally involved in appointing umpires to crew chief positions and selecting umpires to work Special Events, including World Series games.

12. Since January 2020, I have served as Special Assistant to the Commissioner of Baseball.

13. The World Series is the annual MLB championship series in Major League Baseball and the most critical Special Event of the baseball calendar. It is a best-of-seven game series.

14. The criteria I relied upon for making crew chief selection are not identical to those I used to evaluate umpire performance. Success of an umpire, in my view, is a necessary but insufficient requirement for promotion to crew chief. I considered a variety of factors in making crew chief appointments, including but not limited to:

- Leadership skills -- including situation management, maintaining an appropriate pace-of-game, on-field presence, demonstrating the requisite managerial skills necessary to lead a crew on and off the field, the ability to form and maintain strong interpersonal relationships with other umpires, ability to maintain composure and regain focus if an officiating error is made, personal accountability, demeanor, effective communication skills with the Office, Club personnel and players, hustle, focus, and integrity;
- Overall quality of performance, including strike zone accuracy, made/missed calls, ability to properly enforce the Replay Regulations and Procedures on the field and as a Replay Official, how much or how often the umpire exceeds/does not meet expectations, allowing fans to keep their focus of the game on the field, and agility and position accuracy in getting the appropriate angle on calls;
- Fulfillment of duties and responsibilities, including attendance and the umpire's adherence to the Four-Umpire System, as well as other mandates of the Major League Baseball Umpire Manual, the Official Playing Rules, Replay Regulations, and the Basic Agreement;
- Initiative, including whether the umpire takes the initiative to train and mentor junior umpires; and
- Success in the role of interim crew chief.

15. In making permanent crew chief selections, the factor that I considered most important was the consistent display of leadership skills referenced in the preceding paragraph. These skills are important attributes for crew chiefs in order to set a positive example for the rest of the crew.

16. Due to the significance of the World Series to Major League Baseball, it is imperative that MLB staff World Series games with umpires who have displayed the highest levels of performance that season and throughout their careers. In evaluating an umpire's performance for selection to the World Series, I gave particular consideration to umpires who demonstrated the ability to manage on-field situations under intense pressure; took responsibility for their on-field decisions; maintained composure and regained focus immediately if an officiating error was made; and applied and conveyed the Official Rules of Baseball correctly and clearly. Our goal was to select the umpires who would best allow fans to keep their focus on the game and the players rather than on the actions of the umpires during a game. I also looked for these same qualities in deciding which umpires to promote to a permanent crew chief role.

17. The mid-year and year-end evaluations are a performance management tool intended to motivate umpires to work on certain deficiencies and to recognize areas of strength. I reviewed and approved umpires' mid-year and year-end performance evaluations.

18. Field Evaluation Forms are individual game reports completed by Field Observers and Supervisors who evaluate umpires' on-field performance during live games that they observe in person. One of the reasons I did not place significant weight on Field Evaluation Forms for purposes of crew chief decisions and World Series selections is that the reports are completed only for individual games that are observed in-person and are strictly limited to predetermined criteria listed on the forms concerning on-field performance in that individual game. The Field Observers who complete these reports are precluded from commenting on factors beyond those identified on the form, and also must avoid any personal interaction with the umpires. In other words, Field Evaluation Forms are targeted to merely help our umpire supervisors identify whether an umpire is experiencing a trend of being deficient in fundamental umpiring competencies that should

warrant consideration of a corrective action plan. Field Evaluation Forms do not contain specific competencies of leadership ability or ability to perform in high pressure games—criteria I consider extremely important for World Series assignments and permanent crew chiefs.

19. Since 2011, I believed that Hernandez’s performance did not merit selection to one of the limited assignments that had been available for each World Series (six to eight umpires per World Series, depending on the year) because, in my view, he had not consistently demonstrated the high level in those areas of performance I believe are required to umpire in the World Series. Similarly, it was my view that Hernandez had not consistently demonstrated the high level in those areas of performance I believe are required for a permanent crew chief.

20. My lack of confidence in Hernandez to umpire the most important games of the season on the biggest stage in the World Series and to be a permanent crew chief was based on my personal observations of his performance, including his inconsistent judgment and decision-making skills since 2011. During these most significant games of the season, it is imperative that if an umpire makes a mistake, which is inevitable, that he be able to move on from that mistake so as not to affect his performance and the performance of the umpiring crew for the rest of the game and the remaining games in the World Series. Maintaining a high level of focus on the field, and being able to quickly refocus if an incorrect call is made, are particularly critical skills in the World Series because each game, and each call in a game, assumes a heightened level of consequence in this winner-takes-all series. As I noted above, these qualities are important indicators of an umpire’s ability to set a positive example for other umpires on his crew.

21. Certain incidents in particular underscored Hernandez’s unsuitability for World Series assignments and a permanent crew chief role. Hernandez repeatedly has been unable or unwilling to take responsibility for his mistakes and, as a result, has been unable to move past

those mistakes so that he can remain 100 percent focused on what is taking place on the field. For example, Hernandez has for years been preoccupied with an incorrect call he made on May 8, 2013 in Cleveland, during a game between the Cleveland Indians and Oakland A's. Hernandez has refused to admit that the call he made was incorrect. His inability to put this incident behind him and his continued insistence that others were at fault for his wrong decision in my view is emblematic of what has made him unsuitable for World Series assignments and a permanent crew chief role. The issue was not the bad call itself, but his refusal for years to accept responsibility for and move on from it, which is the exact opposite of the type of leadership, personal accountability, and focus I sought of umpires to work the World Series and of permanent crew chiefs.

22. We addressed Hernandez's inability to accept and move on from mistakes and attempted to refocus him repeatedly over the years. For example, in Hernandez's 2013 year-end performance evaluation, we advised him to "[c]ontinue to work on presenting a positive and professional demeanor on the field. If an issue does arise, do your best to solve it and move on. Try not to harp on the same issue as it can take away from the rest of your umpiring." A true and correct copy of Hernandez's 2013 year-end performance evaluation is attached as Exhibit A.

23. We specifically informed Hernandez that his struggle to accept responsibility for past incidents and move forward has hindered his candidacy for a crew chief position. We addressed the issue in both Hernandez's 2014 mid-year and year-end evaluations. At mid-year, we reminded Hernandez that his desire for added responsibility "would only come to fruition with your ability to remain focused on the present and things that you can control." At year-end, we communicated to Hernandez concerning his interest in a crew chief position that "[y]ou need to continue to take steps forward in your communication and your accountability before this can

happen. As you discussed with [me] (as well as written in your past evaluations), you need to be accountable to yourself and let things from the past go. You continue to harp on matters that happened many years ago; this behavior is not healthy and not what we expect from a crew chief or any umpire. You need to learn from the past and then move forward.” In addition, with regard to his communications skills, we reminded Hernandez that we cannot have situations like the one that occurred in June of that season when, we determined, he failed to communicate with the chief of his crew regarding a potential rain delay and instead he called for the tarp to cover the field, which resulted in confusion on the field and a delay of the game. True and correct copies of Hernandez’s 2014 mid-year and year-end performance evaluations are attached as Exhibits B and C.

24. In January 2015, I met with Hernandez during the annual umpire meeting and urged Hernandez to [REDACTED] move past the Cleveland incident. He dismissed my recommendation. During this meeting, Hernandez continued to bring up the Cleveland incident and told me I should have publicly clarified that he did not miss the call. In my judgment, however, he did miss the call. I told him, however, that regardless he needed to put past incidents behind him and move forward to be considered for a future crew chief role.

25. In Hernandez’s 2016 year-end evaluation, we again addressed his tendency to lose focus after making a mistake. Specifically, we advised him to “[r]emain focused throughout the end of each play. You seem to miss calls in bunches, like your four missed calls in the second half all coming within a two-week period in September. It is vital that you can overcome any issues on the field and move to the next play. Try not to dwell too much on past performance.” A true and correct copy of Hernandez’s 2016 year-end evaluation is attached as Exhibit D.

26. In 2017, we explained to Hernandez in the letter informing him of the reasons that he was not selected as crew chief that “in order to enhance your candidacy for a Crew Chief position, we would like to see you...continue to improve your situation management, and display an ability to refocus and move forward after missed calls or receiving constructive feedback from the Office.” A true and correct copy of the 2017 letter I sent to Hernandez is attached as Exhibit E.

27. Hernandez’s continued inability to recover from a mistake was evidenced most dramatically during the 2018 American League Division Series. In order to be eligible to umpire in the World Series, an umpire must have worked that year’s American League or National League Division Series. An umpire’s performance in the Division Series is considered in determining which umpires to select for the World Series. I selected Hernandez for the Division Series in 2018 with the intention to provide him with an opportunity to umpire in the 2018 World Series.

28. Hernandez did not capitalize on that opportunity and did not rise to the occasion. To the contrary, in Game 3 of the Division Series between the New York Yankees and Boston Red Sox – a high-profile series in that round because of the media markets involved and nature of the historic rivalry between those teams – three of Hernandez’s calls were overturned via instant replay in the first four innings alone. This was the first time since the advent of expanded instant replay in 2014 that an umpire had three calls overturned in a postseason game, and is illustrative of how Hernandez has struggled to regain his composure after he makes a mistake. Based on his performance in Game 3 of the American League Division Series, I was not confident in his ability to perform effectively on an even more intense stage and for this reason I did not consider him for the World Series that season.

29. Defusing on-field situations involving players and managers while displaying a calm and professional demeanor is even more critical during the World Series than it is in the regular season. It is also an essential skill for a permanent crew chief. Hernandez has not demonstrated these skills on a consistent basis. For example, in 2013, Hernandez ejected a Club field manager after an incident in which Hernandez changed his own call. As we noted in his 2013 year-end evaluation, Hernandez's own actions created this on-field situation and escalated the situation to an ejection that could have been avoided and handled better. *See Exhibit A.*

30. In 2014, I observed that Hernandez reacted negatively to an instant replay review overturning a call he made, and threw his headset on the field after he had been reversed. This incident was particularly troubling to me because 2014 was the first year of expanded replay and we needed all umpires to demonstrate that they embraced this change. We advised Hernandez in his 2014 year-end review that "these negative moments of bad body language had a very harmful effect on all of your very positive work." *See Exhibit C.*

31. In 2015, Hernandez ejected two different Club field managers following on-field arguments, without issuing a warning to either manager. In his year-end evaluation, we encouraged Hernandez to think about ways to defuse, rather than accelerate, on-field situations such as these, including by "[i]ssuing a simple warning. . . might be enough to keep them in the game" before moving to ejections. A true and correct copy of Hernandez's 2015 year-end evaluation is attached as Exhibit F.

32. Although I recognized that Hernandez made efforts to improve his on-field demeanor, he would slip back into an overly confrontational style that, in my view, was counter-productive. For example, in July 2017, I observed video of Toronto Blue Jays pitcher J.A. Happ walking off the mound after thinking he had thrown a third strike to a batter to end the inning,

which Hernandez called a ball. As Happ was walking off the mound, Hernandez took his mask off, put his hands on his hips, walked out from behind the plate, and confronted Happ about his movement off the mound. I had concerns about this incident and felt it important to speak with Hernandez about his conduct and to get his account of the situation. During our conversation, I told him that he was confrontational with the pitcher. I asked Hernandez whether he said “What do you want?” to Happ, and Hernandez told me that he did. Hernandez acknowledged to me that he had been trying to improve his on-field demeanor and, aware of his repeated inability to accept constructive criticism, I commended him on his efforts and encouraged him to continue to work hard on that.

33. In my view, the quality of an umpire’s performance while serving as an interim crew chief is an important indicator of an umpire’s ability to perform in a more critical, visible role and in a leadership capacity. Accordingly, an umpire’s performance in the interim crew chief role was an important factor into my decision-making process with respect to crew chief promotions and World Series assignments.

34. While all Major League umpires are technically proficient, crew chiefs must demonstrate the requisite managerial skills necessary to lead a crew on and off the field, and a superior ability to handle on-field situations.

35. The first crew chief appointments that I made, in collaboration with Peter Woodfork, after we joined MLB in March 2011 were for the 2013 season, as there were no crew chief openings for the 2012 season. In all of my crew chief promotion decisions, I appointed crew chiefs who demonstrated consistency in leadership, judgment, the ability to manage on-field situations, a calm and professional demeanor, and communicated effectively with other umpires, the Office, Club personnel, and players. The umpires I selected handled the additional

responsibilities and increased visibility associated with the crew chief role well when serving as an interim crew chief, including performing well as an interim crew chief in the season immediately preceding their promotions, demonstrating that they were ready to assume the role on a full-time basis. I also promoted crew chiefs who demonstrated the ability to form and maintain strong interpersonal relationships with other umpires, acted as mentors for more junior umpires, and did not have the same issues with personal accountability, ability to remain composed and refocus after errors as Hernandez.

36. In contrast, when serving as an interim crew chief, Hernandez demonstrated that he was not ready for promotion to a permanent leadership position or to umpire in a more critical and visible role. In September 2012, while acting as interim crew chief, Hernandez asked Cincinnati Reds Pitcher Homer Bailey to autograph eleven baseballs for himself and the other members of the crew following a game in which Bailey pitched a no-hitter. Hernandez's conduct violated provisions of the Basic Agreement and Umpire Manual, which state, among other things, that umpires cannot directly or indirectly ask players for autographs, must be cautious about casual fraternization with Club employees for the purposes of avoiding appearances of impropriety, and must avoid the appearance of a conflict of interest and/or undue influence. Even worse, Hernandez was serving in a leadership role and he understood that his actions violated MLB rules. As I concluded in my letter informing him of a [REDACTED] fine, his actions were unprofessional and demonstrated extremely poor judgment, and were particularly egregious because, as acting crew chief, he was supposed to set a positive example for the rest of his crew. A true and correct copy of the letter I sent Hernandez is attached as Exhibit G.

37. Hernandez was also acting crew chief during the May 8, 2013 game in Cleveland described above in which he made an incorrect call and refused to accept responsibility for it. In

addition to reflecting poorly on his ability to move on from past mistakes and regain focus, it also reflected poorly on his leadership skills. I believe that good leaders accept responsibility for actions, hold themselves accountable for their successes and their failures, and seek to learn from the past rather than dwell on it and shift blame to others.

38. As a result of his performance as an interim crew chief in 2012 and 2013, as well as the other performance issues described above, I did not ask Hernandez to serve as an interim crew chief for more than one week in each of the 2014-17 seasons. On those occasions, I asked Hernandez to fill in on a very limited basis while the crew chief on his crew was unavailable.

39. In 2018, I gave Hernandez the opportunity to serve as an interim crew chief for nearly one full month of the season, and his performance that season merited a post-season assignment in the American League Division Series, with an eye towards placing him in the World Series. There were no crew chief openings at the end of 2018 for the 2019 season, and I did not consider him for the World Series that year based on his performance in the Division Series discussed above.

40. In 2019, I provided Hernandez with another opportunity to serve as an interim crew chief. He again did not rise to the occasion. During a game between the Boston Red Sox and Tampa Bay Rays in July 2019 when Hernandez was the interim crew chief, he misapplied a rule involving the effect of the substitution of players on the lineup – a rule reinforced with Hernandez by his supervisor immediately prior to that series. Hernandez compounded his error by not communicating clearly with the Club field managers or his crew members, which ultimately led to a 14-minute game delay and the Red Sox playing the rest of the game under “protest,” which, under the rules, could have resulted in the game being replayed from the point of the disputed

ruling. This incident further illustrates Hernandez's struggle to maintain control and de-escalate tense on field situations.

41. Following the game, MLB commenced an investigation into the Red Sox-Rays on-field incident. As part of our investigation of that incident, MLB interviewed the umpires involved via separate telephone interviews that we intended to be confidential. During that investigation, MLB concluded that Hernandez intentionally and deceptively eavesdropped on a confidential conversation with another umpire on the crew for that game in order to hear what that umpire would say concerning the on-field incident, and when MLB asked Hernandez about it, he provided completely implausible and not credible explanations for such conduct.

42. On August 23, 2019, I sent Hernandez a letter detailing MLB's investigation and conclusions concerning his misapplication of the rules during the July 24, 2019 game and his misconduct in the investigation that followed. I removed Hernandez as interim crew chief from that point forward in the 2019 season. A true and correct copy of the letter I sent Hernandez is attached as Exhibit H.

43. The candidates who I have appointed to crew chief have not demonstrated the same pattern of issues and to the same extent that have manifested with Hernandez over the years. To the contrary, they have demonstrated the type of performance required of a crew chief. For example, I appointed Ted Barrett to crew chief in 2013. In my judgment, Barrett consistently demonstrated exceptional leadership ability and an excellent disposition in on- and off the field interactions with the Office, his peers, and Club personnel and players. We commended Barrett's demeanor and situation-handling in the years leading up to his appointment.

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[REDACTED]

[REDACTED]

[REDACTED]

44. I appointed Fieldin Culbreth to crew chief in 2013. In my judgment, Culbreth's demeanor on the field allowed him to defuse on-field incidents and maintain control of games, and his interpersonal skills positively contributed to the cohesiveness of his crew. We commended

Culbreth's demeanor and situation-handling in the years leading up to his appointment, particularly while filling in as an interim crew chief.

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45. I appointed Jim Joyce to crew chief in 2013. Prior to Joyce's appointment to crew chief in 2013, he served as an interim crew chief for 132 games during the 2012 season. In my judgment, Joyce was adept at situation handling and excelled as an interim crew chief the year prior to his appointment.

[REDACTED]

46. I appointed Jeff Nelson to crew chief in 2014. Prior to Nelson's appointment to crew chief in 2014, he served as an interim crew chief for 33 games during the 2013 season. In my judgment, Nelson had strong situation handling and interpersonal skills, particularly while serving in an interim crew chief role in the years leading up to his appointment.

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47. I appointed Bill Miller to crew chief in 2014. In my judgment, Miller remained composed during tense situations, had strong situation-handling skills, and a firm command of the

██████████

██████████

49. I appointed Mike Everitt to crew chief in 2017. Prior to Everitt's appointment to crew chief, he served as an interim crew chief for 123 games during the 2016 season. Everitt displayed a composed and professional demeanor on and off the field that earned the respect of his peers, Club personnel, and players, and he mentored less experienced umpires. On multiple occasions during the 2016 season, we asked Everitt to join other crews to fill staffing gaps. This created trying demands on his travel schedule and required him to work collaboratively with a wide cross-section of umpires, all while serving as an interim crew chief with on multiple crews. He excelled under those difficult circumstances.

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50. I appointed Sam Holbrook to crew chief in 2017. In my judgment, Holbrook had demonstrated the ability to deescalate difficult on-field situations, and he has a strong command of the rules. Holbrook has served on a joint committee of MLB and the umpire's union on training, which assists the parties in vetting rule changes and rules interpretations. When given interim crew chief responsibilities, Holbrook excelled in the role.

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51. I appointed Mark Wegner to crew chief in 2018. Prior to Mark Wegner's appointment to a crew chief position in 2018, he served as an interim crew chief for 31 games during the 2017 season. In the years prior to Wegner's appointment to a full-time crew chief role, his calm demeanor and positive attitude helped to maintain control of difficult situations that

arose in games. In the season prior to his promotion to crew chief, Wegner served as an interim crew chief where there was a need, and demonstrated his ability to step in and manage various groups of umpires while maintaining a high level of performance on the field. Wegner also moved crews frequently when not serving in an interim crew chief role to help strengthen crews short on experienced umpires, and had a positive impact on those crews both on and off the field.

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I declare under penalty of perjury that the foregoing is true and correct. Executed this 3rd
day of June, 2020 at Harrison, New York.



JOE TORRE